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Calendar No. 352

101ST CONGRESS
1st Session

SENATE

REPORT
101-189

PALAU COMPACT OF FREE ASSOCIATION IMPLEMENTATION ACT

NOVEMBER 3 (legislative day, SEPTEMBER 18), 1989.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.J. Res. 175]

The Committee on Energy and Natural Resources to which was referred the joint resolution (H.J. Res. 175) to authorize entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the joint resolution, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—IMPLEMENTATION OF COMPACT OF FREE ASSOCIATION WITH PALAU

SEC. 101. ENTRY INTO FORCE OF COMPACT.

Notwithstanding the provisions of Section 101(d)(1)(B) of Public Law 99-658, entry into force of the Compact of Free Association between the United States and Palau (set forth in title II of Public Law 99-658 and hereafter in this joint resolution referred to as the "Compact") in accordance with subsections (a) and (d) of section 101 of Public Law 99-658 (100 Stat. 3673) is hereby authorized—

(1) subject to the condition that the Compact, as approved by the Congress in Public Law 99-658, is approved by the requisite percentage of the votes cast in a referendum conducted pursuant to the Constitution of Palau, and such approval is free from any legal challenge, and

(2) upon expiration of 30 days, in which either the House of Representatives or the Senate of the United States is in session, after the President notifies the Committees on Interior and Insular Affairs and Foreign Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of the effective date of the Compact.

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SEC. 102. FISCAL PROCEDURES ASSISTANCE.

Upon request of the government of Palau, the Secretary of the Interior shall provide assistance to the Government of Palau to develop and promulgate regulations for the effective expenditure of funds received pursuant to this joint resolution, Public Laws 99-658 and 99-239, or any other Act of Congress.

SEC. 103. ANTIDRUG PROGRAM.

(a) PLAN.—The Department of the Interior shall develop, in cooperation with the Government of Palau and the National Drug Control Policy Office, a plan for an antidrug program in Palau. The plan shall be submitted to the Committees on Interior and Insular Affairs, Foreign Affairs, and Appropriations of the House of Representatives and the Committees on Energy and Natural Resources and Appropriations of the Senate by April 1, 1990. The plan shall: (1) identify the specific needs and costs of such an antidrug program; (2) shall identify all existing resources to be allocated for its implementation by the Government of the United States and the Government of Palau; and (3) shall recommend priority use for additional resources, assuming such resources are made available.

(b) AGREEMENT.—Following completion of the plan, the President and the Government of Palau shall negotiate an agreement to facilitate implementaion of the plan. Such agreement may include—

(1) that the Government of Palau may request, on a long-term or case-by-case basis, that the officers of United States law enforcement agencies may conduct investigations consistent with implementation of the plan in cooperation with the law enforcement agencies of the Government of Palau;

(2) that the Government of Palau or the Government of the United States may agree to provide specific resources, on a one-time or a multiyear basis, to strengthen the antidrug program; and

(3) a specific description of the technical assistance, training, and equipment to be provided to Palau by the United States necessary to implement the plan.

SEC. 104. PUBLIC AUDITOR AND SPECIAL PROSECUTOR.

(a) Upon request of the Government of Palau the President shall provide, on a nonreimbursable basis, appropriate technical assistance to the public auditor or special prosecutor. The assistance provided pursuant to this subsection for the first five years after the effective date of the Compact shall, upon the request of the Government of Palau, and to the extent personnel are available, include (but not be limited to) the full time services of—

(1) an auditor or accountant, as determined by the public auditor, for the office of public auditor; and

(2) an attorney or investigator, as determined by the special prosecutor, for the office of special prosecutor.

SEC. 105. POWER GENERATION.

Section 104(e) of Public Law 99-658 is amended to read as follows:

"(e) Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sum and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau, except under the procedures established by the Compact and its related agreements. No funds appropriated pursuant to the Compact, this Act, or any other Act for grants or other assistance to Palau may be used to satisfy any obligation or expense incurred by Palau prior to November 14, 1986, with respect to any contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau which has not been specifically authorized by Congress in advance, except that the Government of Palau may use any portion of the annual grant under section 211(b) not required to be devoted to the energy needs of those parts of Palau not served by its central power generating facilities and any portion of the funds under section 212(b) of the Compact for such purpose.".

SEC. 106. AUDIT CERTIFICATION.

The chief officer of any agency conducting an audit pursuant to paragraph (1) of sections 102(c) and 103(m) of the Compact of Free Association Act of 1985 (Public Law 99-239) and section 101(d)(1)(C) of Public Law 99-658 shall certify that audit.

SEC. 107. ACQUISITION OF DEFENSE SITES.

The provisions of title III of the Compact relating to future use by the United States of defense sites in Palau do not restrict the authority of the President of the United States to—

(1) request additional funding, subject to appropriation, related to the use of privately owned land in Palau pursuant to article II of title III of the Compact as may be appropriate in light of actual land use requirements, independent appraisals of such privately owned land accepted by both governments, and other appropriate documentation of actual land use costs; and

(2) consent to an extension of the time set forth in a subsidiary agreement to such article in which the Government of Palau is required to make such land available to the United States.

SEC. 108. FEDERAL PROGRAMS COORDINATION PERSONNEL.

The Secretary of the Interior shall station at least one professional staff person in each of the Offices of the United States Representatives in the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands to provide Federal program coordination and technical assistance to such governments as authorized under Public Laws 99-239 and 99-658. In meeting the purposes of this section the Secretary shall select qualified persons following consultations with the Interagency Group on Freely Associated State Affairs.

SEC. 109. REFERENDUM COSTS.

The Secretary of the Interior shall provide such sums as may be necessary for a further referendum on approval of the Compact, if one is required, or other appropriate costs associated with the approval process in Palau.

SEC. 110. AGREEMENTS.

(a) EFFECTIVE DATE OF CERTAIN AGREEMENTS.—An agreement between the United States and the Government of the Republic of Palau consistent with the agreements approved by Public Law 101-62 (101 Stat. 162) shall take effect without further authorization thirty days after submission to Congress.

(b) EXTENSIONS.—The provisions of article IX, paragraph 5(a) of the Agreement referred to in section 462(e) of the Compact of Free Association as approved by Public Law 99-239, and article IX, paragraph 5(a) of the agreement referred to in section 462(f) of the Compact of Free Association for Palau as approved by Public Law 99-658, are extended, in accordance with the terms thereof, until October 1, 1998, unless earlier terminated or further extended by the laws of the United States.

(c) AUTHORIZATION.—Funding to implement the provisions of this title, and for assistance to the central health care facility and the prison in Palau, and the offices of Public Auditor and Special Prosecutor as proposed in the agreement entitled "Agreement Concerning Special Programs related to the Entry into Force of the Compact of Free Association Between the Government of the United States and the Government of the Republic of Palau" signed on May 26, 1989, shall be available pursuant to the authorization in section 105(c) of Public Law 99-239 as referenced by Section 102(b) of Public Law 99-658 or from funds appropriated for technical assistance to the Secretary of the Interior.

SEC. 111. MODIFICATION OF ENERGY ASSISTANCE FUNDING.

(a) The President is authorized to negotiate and conclude an agreement, including the obligation of United States funds, with the Government of Palau which shall provide the following:

(1) The sum of $28,000,000, adjusted by section 215 of the Compact at the time of its availability to Palau, shall be provided to Palau pursuant to section 211(b) of the Compact and upon entry into force of the Compact.

(2) Palau shall pay to the United States, on or before the 15th anniversary of the effective date of the Compact, an amount equal to the net economic cost to the United States of making available the section 211(b) funds in the manner specified in this subsection rather than as provided in section 211(b).

(3) Such economic cost shall reflect the time value of money and be determined using the rate determined for an equivalent loan by the Federal Financing Bank as of the date these funds are advanced, and using an inflation rate consistent with the determinations made under the provisions of section 215 of the Compact.

(4) If the Government of Palau has not paid such net economic costs to the United States by the 15th anniversary of the effective date of the Compact, then the United States shall be automatically paid such sums from the fund established under section 211(f) of the Compact.

(5) The provision of section 211(b) funds, as appropriated by Public Law 99-349 and pursuant to this subsection, shall be in fulfillment of all United States obligations under such section 211(b) of the Compact and shall be subject to section 236 of the Compact.

(b) Subject to the provisions of subsection (a) and upon the request of the Government of Palau, the sum of $28 million appropriated by Public Law 99-349 to fulfill the obligations of the United States under section 211(b) of the Compact (approved in Public Law 99-658), adjusted by section 215 of such Compact, shall be provided to Palau upon entry into force of the Compact.

SEC. 112. SUBMISSION OF AGREEMENTS.

Any agreement concluded with the Government of Palau pursuant to this joint resolution including the agreement entitled "Agreement Concerning Special Programs related to the Entry into Force of the Compact of Free Association Between the Government of the United States and the Government of the Republic of Palau" signed on May 26, 1989, and any agreement which would amend, change, or terminate any such agreement, or portion thereof, shall be submitted to the Congress and may not take effect until after 30 days after the date on which such agreement is so submitted. An amendment or agreement substituting or in addition to the subsidiary agreement negotiated under section 212(a) of the Compact or its annex shall take effect only when approved by an Act of Congress.

SEC. 113. TRANSITION FUNDING.

For the purposes of applying section 105(c)(2) of the Compact of Free Association Act of 1985 (99 Stat. 1792) to Palau, the terms "fiscal year 1987", "fiscal year 1988"s, and "fiscal year 1989" in section 104(c) of Public Law 99-658 shall be deemed to be the first, second, and third fiscal years, respectively, beginning after the effective date of the Compact.

TITLE II—INSULAR AREAS MATTERS

SEC. 201. CONTROLLED SUBSTANCES IN THE FREELY ASSOCIATED STATES.

(a) IN GENERAL.—The President is authorized to negotiate agreements which provide—

(1) that the United States shall carry out the provisions of part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) as necessary to provide for the lawful distribution of controlled substances in the freely associated states; and

(2) that a freely associated state which institutes and maintains a voluntary system to report annual estimates of narcotics needs to the International Narcotics Control Board, and which imposes controls on imports of narcotic drugs consistent with the Single Convention on Narcotic Drugs, 1961, shall be eligible for exports of narcotic drugs from the United States in the same manner as a country meeting the requirements of subsection (a) of section 1003 of the Controlled Substances Act (21 U.S.C. 953).

(b) EFFECTIVE DATE.—Agreements concluded pursuant to this section shall become effective pursuant to section 101(f)(5) of Public Law 99-239 or section 101(d)(5) of Public Law 99-658, as may be applicable.

SEC. 202. NORTHERN MARIANAS COLLEGE.

The Northern Marianas College is hereby constituted a depository to receive Government publications, and the Superintendent of Documents shall supply to the Northern Marianas College one copy of each such publication in the same form as supplied to other designated depositories

SEC. 203. MATCHING FUND REQUIREMENT.

The last sentence of section 501(d) of Public Law 95-134, as amended by Public Law 96-205, as amended (48 U.S.C. 1469a(d)), is amended—

(1) by inserting "any non-discretionary Federal program as it applies in" before "American Samoa"; and

(2) by inserting "or other expenditures" after "funds".

SEC. 204. VIRGIN ISLANDS.

The Revised Organic Act of the Virgin Islands is amended by striking out the second sentence of section 25 (48 U.S.C. 1615).

SEC. 205. CABRAS ISLAND.

Section 818(b)(2) of Public Law 96-418 (94 Stat. 1782) (as amended by section 504 of Public Law 98-454 (98 Stat. 1736)) is amended by striking "30 percent" and inserting "50 percent".

SEC. 206. POHNPEI HYDROPOWER ADDITION.

In addition to sums already appropriated for the Nanpil hydropower project, there are hereby authorized to be appropriated to the Secretary of the Army up to $6.5 million for design and construction of the hydropower addition to the Nanpil

project. The Secretary of the Army is directed to use any funds appropriated pursuant to this authorization for the intended purposes, and under the same terms and conditions as sums previously provided.

SEC. 207. CLARIFICATION WITH RESPECT TO ALLOTMENTS FOR TERRITORIES.

Section 901(a), Part 1, Title I of the Act of June 19, 1968 (42 U.S.C. 3791(a)) is further amended in paragraph (2) by changing the proviso to read as follows: "*Provided,* That for the purpose of section 506(a), American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one state and that for these purposes 67 per centum of the amounts allocated shall be allocated to American Samoa, and 33 per centum to the Commonwealth of the Northern Mariana Islands.".

SEC. 208. VIRGIN ISLANDS PRISON EXPANSION AND RENOVATION.

There is authorized to be appropriated $5,000,000 to the Secretary of the Interior for the Golden Grove Prison on St. Croix, United States Virgin Islands, and for renovation of and improvements to existing prison facilites.

SEC. 209. OFFICE OF THE RESIDENT REPRESENTATIVE.

Real property owned by the Commonwealth of the Northern Mariana Islands in the capital of the United States and used by the Resident Representative thereof in the discharge of his representative duties under the Covenant shall be exempt from assessment and taxation.

PURPOSE

The purposes of H.J. Res. 175 are, under title I, to authorize the entry into force of the Compact of Free Association between the United States and Palau; and, under title II, to enact several necessary authorizations, technical and clarifying amendments, and program modifications for the territories of Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands, and the Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands.

BACKGROUND AND NEED

In 1945, the islands of Micronesia held by Japan under a mandate of the League of Nations were placed under the United Nations Trusteeship System with the United States as Administering Authority.

The United States has been preparing the Micronesian people for self-determination and termination of the Trusteeship since the 1960's. On November 3, 1986, the President proclaimed the Trusteeship terminated with respect to three of the four entities comprising the Trust Territory. The Commonwealth of the Northern Mariana Islands became a self-governing area under the sovereignty of the United States pursuant to Public Law 94-241, and the Federated States of Micronesia and the Republic of the Marshall Islands became sovereign self-governing areas in free association with the United States pursuant to Public Law 99-239.

The fourth entity, the Republic of Palau, has been delayed in the implementation of the Compact of Free Association due to conflicts between its constitution and the terms of the Compact of Free Association. The Palauan courts have ruled that based on its interpretation of the Palau Constitution and the provisions of the Compact, the Palau constitution requires a 75-percent vote of approval rather than 50 percent. Palau has voted five times from 1983 to 1987 in an effort to achieve a 75-percent vote of approval, but failed each time. The votes of approval ranged from 62 to 72 percent.

The U.S. Congress approved the Compact with Palau under Public Law 99-658, enacted on November 14, 1986. However, in response to concerns regarding Palau's difficulties in approving the Compact, Congress included a provision, section 101(d), requiring that the Compact cannot be implemented until: (1) the President of the United States certifies to Congress that the Compact has been approved in accordance with Palau's constitution, and the United States will be able to carry out its security responsibilities under the Compact; and (2) Congress approves a joint resolution authorizing the President to implement the Compact.

In an effort to resolve the impass over Compact approval the Government of Palau proposed to amend its constitution to effectively lower the vote needed for approval from 75 percent to 50 percent This was done in a referendum held on August 4, 1987. On August 21, 1987 a sixth plebiscite was held and the Compact was approved with a vote of 73 percent.

On November 30, 1987 the President of the United States transmitted the necessary certification of Palauan approval to Congress. On December 9, 1987 Senators Johnston and McClure introduced S.J. Res. 231, legislation to authorize implementation. On January 28, 1988 the Committee held hearings on the legislation and received testimony from several Palauans that the approval process had not been constitutional, and that persons were being intimidated from seeking a court review of the approval process. The Government of Palau testified that any person was free to file a lawsuit, and such a lawsuit was subsequently filed. The Senate passed S.J. Res. 231 on March 28, 1988. This resolution would have authorized implementation of the Compact contingent on the outcome of the lawsuit.

On June 23, 1988, a companion measure, H.J. Res. 597, was introduced in the U.S. House of Representatives. Unlike S.J. Res. 231, this measure would have substantially modified the effect of the Compact as approved by Congress under Public Law 99-658.

On August 29, 1988, the Supreme Court of Palau ruled the Palauan approval process invalid due to procedural mistakes in passage of the Palau legislature's resolution authorizing the August 4, 1987 vote.

The resolution authorizing implementation of the Compact, required by section 101(d) of Public Law 99-658, was not to be enacted prior to Palauan approval. However, the leadership in Palau urged the United States to authorize implementation notwithstanding the failure of Palau to approve the Compact. The reason given for seeking U.S. Congressional action prior to Palauan approval was so that the exact terms of the Compact would be set forth in U.S. law prior to a final vote in Palau and also to permit implementation, should Palau approve the Compact, during the period between adjournment of the 100th Congress and the beginning of the 101st.

On October 5, 1988, the U.S. House of Representatives passed H.J. Res. 597 which would have authorized implementation of the Compact. This resolution had 16 sections in addition to those included in the Senate passed bill. These sections were designed to respond to House concerns regarding corruption, drug trafficking,

law enforcement deficiencies and other issues it believed were inadequately addressed by Public Law 99–658.

On October 7, the Senate passed an amendment to the House resolution which modified the House bill to make it consistent with three general principles: 1, that there be no new entitlements for Palau, but that additional funding be approved on a case-by-case basis through the appropriations process; 2, that the United States not be held liable for debts incurred by the Government of Palau; and 3, that the United States not impose new conditions on Palau which would be inconsistent with its future status as a sovereign self-governing State in free association with the United States.

In addition, the Senate amendment included several provisions which would enact necessary authorizations, technical amendments and program modifications with respect to the U.S. territories and the Freely Associated States.

In the closing hours of the 100th Congress, Members of the House of Representatives involved in this legislation agreed to accept the Senate passed amendment, provided the Administration would seek to implement the provisions of the House passed resolution. Although the Administration agreed, the House failed to act before adjournment.

In February 1989, members of the House Committee on Interior and Insular Affairs requested that the Administration negotiate an agreement with the Government of Palau which would include provisions to fulfill certain provisions of the House resolution as passed on October 5, 1988. On May 26, 1989 such an agreement was concluded between the United States and Palau, the so-called "Special Programs Agreement". On June 27, 1989 the House passed H.J. Res. 175 which included the provisions of the Senate amendment to H.J. Res. 597 as passed on October 7, 1988, but it also included four additional sections as follows: Section 209 amends Public Law 99–658, which approved the Compact, to provide that the Special Programs Agreement cannot be amended, changed or terminated except by Act of Congress; section 210 authorizes grants to the political parties of Puerto Rico for expenses incurred while participating in the legislative process on the future status of the island, including travel, communications, printing and other related services; section 211 amends the Anti-Drug Abuse Act of 1988 regarding the allocation of funding to the territories; and section 212 authorizes $5 million for the construction and/or renovation of a prison in the U.S. Virgin Islands.

Legislative History

H.J. Res. 175 was introduced on March 8, 1989. It was reported by the Committee on Interior and Insular Affairs on June 21, 1989 and passed by the full House on June 27, 1989. The Senate Committee on Energy and Natural Resources conducted a hearing on September 26, 1989. On November 1, 1989, the Senate Committee ordered the measure reported with an amendment.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources in an open business session on November 1, 1989, considered H.J. Res.

175 and by a vote of 18 yeas and 0 nays of a quorum present recommends that the Senate pass H.J. Res. 175, if amended, as described herein.

The roll call vote on reporting the measure was 18 yeas and 0 nays as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth	
Mr. Conrad	
Mr. Heflin	
Mr. McClure	
Mr. Hatfield	
Mr. Domenici*	
Mr. Wallop*	
Mr. Murkowski	
Mr. Nickles*	
Mr. Burns	
Mr. Garn*	
Mr. McConnell	

*Indicates voted by proxy.

Committee Amendment

During consideration of H.J. Res. 175 the Committee adopted an amendment in the nature of a substitute. Title I of the amendment is consistent with the agreement reached between Representatives of the House and Senate in October of 1988. The amendment deletes those sections of title II, such as sections 209 and 210, which were not a part of that agreement, and which are objectionable. The amendment also deletes those provisions of the House passed resolution, such as sections 103(b), 105(a) (1)–(3), 107, 108, and 111, which are no longer necessary because the agreements or reports to be made pursuant to those provisions have been completed. Other provisions, such as sections 114(a) and 202, have been enacted on other legislative vehicles.

Finally, the amendment includes two new omnibus territorial provisions which have since come to the attention of the Committee. The details of the substitute are set forth in the Section-by-Section Analysis portion of this report.

Section-by-Section Analysis

TITLE I—IMPLEMENTATION OF COMPACT OF FREE ASSOCIATION WITH PALAU

Section 101—Entry into Force of the Compact.—This section provides for the entry into force of the Compact given two conditions are met: (1) that the Compact is approved pursuant to Constitution of Palau, and such approval is free from any legal challenge, and

(2) upon expiration of 30 days, in which either the House of Representatives or the Senate of the United States is in session, after the President notifies the Committees on Interior and Insular Affairs and Foreign Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of the effective date of the Compact.

This section states that the entry into force is authorized notwithstanding the provisions of section 101(d)(1)(B) of Public Law 99-658. Section 101(d)(1)(B) requires that the resolution authorizing entry into force of the Compact be reported by the Committee on Foreign Affairs of the House of Representatives as well as by other Committees of the House and Senate. H.J. Res. 175 was not reported by that Committee, and this phrase in Section 101 clarifies that the requirement would no longer apply.

Section 101(1) is amended by the substitute by adding the words "and such approval is free from any legal challenge". This amendment is intended to ensure that the Compact will not take effect until after the applicable statute of limitations in Palau for legal challenges to approval of the Compact has expired, and any challenges filed in Palau within the statutory period have been resolved in a final non-appealable judgment. This amendment would thus prevent a situation in which the Compact could be implemented by the United States and Palau but would then be subsequently invalidated by the courts of Palau. The term "legal challenge" is intended to refer to lawsuits, or possible lawsuits, filed in the courts of Palau challenging the validity of the Palauan approval process or the implementation of the Compact. This phrase is not intended to foreclose legal challenges that may be brought under Palauan law, after the Compact's implementation, to specific provisions of the Compact as implemented.

The Committee is sensitive to the Administration's failure in the past to consult with the Committee on the timing of Compact implementation in the Federated States of Micronesia and the Republic of the Marshall Islands despite assurances that such consultation would occur.

It is the expectation of the Committee that the President of the United States will determine conclusively that Compact approval is free from legal challenge in Palau before proceeding with implementation of the Compact. Such a determination requires that the President make specific findings (notwithstanding a certification by the President of Palau that the Compact has been approved and that such approval is free from possible legal challenge) that: (1) The applicable statute of limitations in Palau for legal challenges to approval of the Compact has expired, and (2) either (a) no such challenges are pending, or (b) any challenges to Compact approval filed in Palau within the statutory period have been resolved in a final, non-appealable judgment so as to allow implementation of the Compact. Such a determination further requires that the President finds that there is no potential for legal challenge which could invalidate the approval of the Compact in Palau.

Paragraph (2) of section 101 requires the President of the United States to notify the Committee 30 days in advance of implementation of the Compact. This time period is 30 days in which either the House of Representatives or the Senate of the United States is in

session. Such time is needed to provide the Committee with the opportunity to review the potential for invalidation of the approval process in Palau, and to discuss with the Administration and with the Government of Palau any concerns that the Committee may have regarding the approval process, and the timing of implementation.

Section 102—Fiscal Procedures Agreement.—The Substitute amends this section to delete subsection (b) which authorized the President to negotiate an agreement on fiscal procedures. Such an agreement is included in the Agreement Concerning Special Programs Related to the Entry Into Force of the Compact of Free Association Between the Government of the United States and the Government of the Republic of Palau (the so-called Special Programs Agreement) concluded on May 26, 1989. Therefore, the purpose of subsection (b) has already been fulfilled and it is no longer necessary. The substitute does not alter the requirement that upon the request of the Government of Palau the Secretary of the Interior shall provide assistance to the Government of Palau to develop and promulgate regulations for the effective expenditure of funds. Such assistance is normally available on a discretionary basis from the Technical Assistance Program of the Office of Territorial and International Affairs. In this case, the assistance is not discretionary to the extent that funding is available. Within appropriation levels, the Department is directed to place a priority on technical assistance for this purpose. However, the Committee expects that the request, and the assistance, will be provided in accordance with the practices of the Technical Assistance Program. That is, the Committee expects the Govenment of Palau to make a formal request for this assistance with a level of detail similar to that normally required and to meet other requirements associated with such a request.

Section 103—Antidrug Program.—The substitute makes one technical amendment to this section. Because the National Drug Policy Board no longer exists, and its successor, the National Drug Control Policy Office, does not have the capability to devleop specific antidrug program plans, the substitute provides that the Department of the Interior shall develop the plan in cooperation with the Govenment of Palau and the National Drug Control Policy Office. The substitute also delays the submission date for the plan by 1 year, to April 1, 1990, in response to the delay in the passage of this measure.

Section 104—Public Auditor and Special Prosecutor.—The substitute amends this section to delete those provisions of subsection (a) which direct the President to negotiate an agreement with the Government of Palau. Such an agreement was included in the May 26, 1989, Special Programs Agreement. Therefore, those provisions are no longer necessary.

The provisions of this section requiring the President to provide technical assistance remain unaltered by the substitute. However, the Committee again expects that the request, and the assistance, will be provided in accordance with the practices of the Technical Assistance Program, except that approval of such a request would not be discretionary.

Finally, the authorization under subsection (b) of the resolution has been consolidated into the general authorization identified in subsection 110(c). The Committee notes that no new authorization is required and technical assistance for this purpose has been available at any time Palau would have made a request.

Section 105—Power Generation.—This section remains unchanged by the substitute. It would amend Section 104(e) of Public Law 99-658 to provide that no officer or agent of the United States shall pay or transfer any portion of the amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau, except under the procedures established by the Compact and its related agreements. No funds appropriated pursuant to the Compact, this Act, or any other Act for grants or other assistance to Palau may be used to satisfy any obligation or expense incurred by Palau prior to November 14, 1986, with respect to any contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau which has not been specifically authorized by Congress in advance, (such as under section 111 of this resolution) except that the Government of Palau may use any portion of the annual grant under section 211(b) not required to be devoted to the energy needs of those parts of Palau not served by its central power generating facilities and any portion of the funds under section 212(b) of the Compact for such purpose. This is consistent with the intent of the negotiators for both Palau and the United States. The Committee wishes to emphasize that the use of such funds for any such obligations is solely at the discretion of Palau and none of such funds are subject to attachment or diversion to uses not consistent with either the provisions of section 211(b) or specified in the capital plan under section 212(b).

It is the Committee's intent that no funds appropriated for grants to Palau be diverted or expended for purposes other than those for which the appropriations were made. The Committee notes both its opposition to the IPSECO power plant project, and the offer to Palau by the Senate Subcommittee on Interior and Related Agencies, and included in the Appropriations Act, of a federally financed power plant at the time representatives of the Palau legislature and other officials were being induced to enter into a contract for the IPSECO plant. Nevertheless, Palau chose to enter into the IPSECO contract. Funding under section 211(b), as modified by section 111 of this resolution, and section 212(b) of the Compact provide funds which may be used for the repayment of the IPSECO debt. The Committee will not support reimbursement of any funds so used.

Section 106—Audit Certification.—This section remains unchanged by the substitute. It would provide that audits conducted pursuant to the Compact Acts, Public Laws 99-239 and 99-658, shall be certified by the chief officer of the agency conducting the audit.

Section 107—Acquisition of Defense Sites.—This section remains unchanged by the substitute. It reiterates that the Compact does not restrict the authority of the President from requesting additional funding from Congress in light of actual land use requirements in Palau, nor does the Compact restrict the President from

consenting to an extension of the time in which the Government of Palau is required to make land available to the United States pursuant to the Compact. The Committee notes that the President has always had this discretion and that Congress would sympathetically consider any needs of Palau. Whether additional assistance is justified or provided, Palau would still be bound by the requirements of Article III of the Compact.

Section 108—Federal Programs Coordination Personnel.—The substitute does not modify subsection (a) of this provision which requires the Secretary of the Interior to station at least one person in each of the Offices of the United States Representatives in the Republic of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands. The Secretary is required to consult with the Interagency Group on Freely Associated State Affairs, as established under Executive Order 12569, before selecting qualified persons to fill these posts.

The Committee expects that the Secretary will consult with the governments of the Freely Associated States prior to selecting persons for these positions in order to determine which programs and agencies of the United States Government are of greater interest to the Freely Associated States. The Committee encourages the Secretary to hire these individuals on a reimbursable detail from such programs and agencies, instead of hiring new persons into the Department of the Interior. To the extent that such persons are effectively coordinating programs from their agency, the Committee expects that the Secretary would enter into an appropriate agreement providing reimbursement only for travel and living expenses.

The substitute consolidates the authorization under this section of the House passed resolution into the general authorization identified in subsection 110(c).

Section 109—Referendum Costs.—This section requires the Secretary of the Interior to provide such sums as may be necessary for a further referendum on approval of the Compact, or other appropriate costs associated with the approval process in Palau. The last sentence of this section which authorizes the appropriation of $200,000 for the referendum is consolidated into the authorization identified in section 110(c).

Section 110—Agreements.—The substitute deletes subsection (a) approving agreements to amend the governmental representative provisions of the Compact of Free Association between the United States and the Federated States of Micronesia and the Republic of the Marshall Islands. These agreements were approved pursuant to Public Law 101-62, so subsection (a) is no longer necessary.

Subsection (b) is modified by the substitute to rephrase its reference to the agreements identified in subsection (a), which was deleted. The intent of the subsection remains the approval of an agreement with the Government of Palau which is analogous to the agreements approved by Public Law 101-62.

A new subsection (c) is added by the substitute which identifies the general transitional authorization for appropriations contained in the Compact Acts, section 105(c) of Public Law 99-239 as referenced by section 102(b) of Public Law 99-658. This subsection reaffirms that this authorization remains available for transition purposes, specifically including the purposes of title I of this resolu-

tion, and certain provisions of the funding proposed in the Special Programs Agreement concluded on May 26, 1989. In all cases, however, it is clear that the actual availability of funds is contingent on appropriation by Congress. The Committee notes that the Appropriations Committees have already exercised this existing authorization to provide funding for most of these provisions in the fiscal year 1990 Appropriations Act for Interior and Related Agencies. No new authorization is needed to fund any of these provisions, if justified.

Section 111—Modification of Energy Assistance Funding.—The substitute makes a technical modification to this section to extend the deadline on the effectiveness of the section which expired on September 30, 1989. The purpose of the section remains authorizing the President to negotiate an agreement which shall provide that, (1) the sum of $28 million, adjusted by section 215 of the Compact at the time of its availability to Palau, shall be provided to Palau pursuant to section 211(b) of the Compact and upon entry into force of the Compact; (2) Palau shall pay to the United States, on or before the 15th anniversary of the effective date of the Compact, an amount equal to the net economic cost to the United States of making available the section 211(b) funds in the manner specified in this subsection rather than as provided in section 211(b); (3) such economic cost shall reflect the time value of money and be determined using the rate determined for an equivalent loan by the Federal Financing Bank as of the date these funds are advanced, and using an inflation rate consistent with the determinations made under the provisions of section 215 of the Compact; (4) if the Government of Palau has not paid such economic costs to the United States by the 15th anniversary of the effective date of the Compact, then the United States shall be automatically paid such sums from the fund established under section 211(f) of the Compact; and (5) the provision of section 211(b), as appropriated by Public Law 99-349 and pursuant to this subsection, shall be in fulfillment of all United States obligations under such section 211(b) of the Compact and shall be subject to section 236 of the Compact.

The Committee notes that the Special Program Agreement concluded on May 26, 1989, identified the net economic cost to be paid by Palau for the advance of 211(b) funds to be $3 million. However, the Agreement was concluded prior to enactment of this section, and following its enactment, the net economic cost of the advancement of the 211(b) funds will have to be calculated in accordance with the terms of this legislation. The Committee wishes to emphasize that the requirements of this section are not discretionary nor hortatory but are legal reuqirements. The Committee remains opposed to the IPSECO project but is willing to advance certain Compact funds only if Palau assumes the full economic cost to the United States of such an advance. Palau is not required to avail itself of this offer, but the terms are not negotiable.

Subsection (b) is added by the substitute to clarify that the appropriation of funds for the first year of Compact funding under Public Law 99-349 shall include those funds necessary to implement subsection (a) if Palau so requests. The phrase "upon entry into force of the Compact" as used in this section is not intended to create a requirement for immediate payment of these funds, but

recognizes that there may be a delay of several weeks to accommodate necessary paperwork before the payment is made. The Committee further notes that the increase in budget outlays resulting from this section would be included in the baseline for the fiscal year in which the Compact is implemented, and would not therefore, be scored against the discretionary spending allocation of the Appropriations Subcommittee on Interior and Related Agencies.

Section 112—Submission of Agreements.—This section requires that any agreement concluded with Palau pursuant to this resolution and any agreement which would amend, change, or terminate any such agreement, or portion thereof, ahall be submitted to the Congress and may not take effect until after 30 days after the date on which such agreement is so submitted; and that, an amendment or agreement substituting or in addition to the subsidiary agreement negotiated under section 212(a) of the Compact or its annex shall take effect only when approved by an Act of Congress.

The substitute clarifies that the Special Progams Agreement concluded on May 26, 1989 is covered by this section. The Committee wishes to make absolutely clear that it is not approving any provision of the May 26, 1989 Agreement nor purporting to enact any provision thereof. Despite statements to the contrary, the House passed legislation only limited the President's authority to amend the Agreement, but did not enact any of the provisions. The Committee specifically wishes to address that section of the Agreement which provides for remedies in the event that Palau fails to meet its obligations under the Agreement. The Agreement includes authority to withhold funds under various sources including the Compact. Since the Agreement is negotiated pursuant to section 224 of the Compact, funding to implement various provisions once the Compact goes into effect is technically Compact derived. They are not Compact funds, however, and the Committee emphatically rejects any suggestion that any subsidiary agreement could reach beyond the four corners of the Agreement without specific Congressional approval, including action by both authorizing and appropriating Committees. No funding provided pursuant to Public Law 99–349 would be affected in any manner by a breach of this Agreement by Palau. The Committee also wants to emphasize that each of the provisions of the Agreement are discretionary, in that Palau is not required to request any assistance nor is the Congress required to appropriate any funds if a request is made. The substitute also deletes subsection (b) of the House passed resolution. The agreements required to be concluded pursuant to subsection (b) are included in the Special Programs Agreement and the subsection is therefore unnecessary.

Section 113—Transition Funding.—The substitute does not alter this section. It would make a technical correction to section 104(c) of Public Law 99–658 to clarify that the phase-out of certain Federal funding in Palau will be delayed to coincide with the delay in implementation of the Compact.

TITLE II—INSULAR AREAS MATTERS

Section 201—Controlled Substances in the Freely Associated States.—This section is not altered by the substitute. It would au-

thorize the President to negotiate agreements with the Freely Associated States with respect to the lawful distribution of controlled substances. In the past, the United States has assisted the governments of the Trust Territory of the Pacific Islands in the purchase and distribution of drugs for medical use. This provision would authorize the President to negotiate the agreements necessary to continue this assistance under the new relationship of free association.

Section 202—Northern Marianas College.—This section is not altered by the substitute. It would designate the Northern Marianas College as a depository to receive U.S. Government publications, and would require the Superintendent of Documents to supply the college with one copy of each document as supplied to the other designated depositories. This provision would thus provide equal treatment to the Northern Marianas College as received by other insular areas.

Section 203—Matching Fund Requirement.—This section would clarify that the waiver for matching grants of less than $200,000 to the insular governments applies to all non-discretionary programs, and includes other expenditures, such as in-kind contributions, which total less than $200,000. The substitute makes a technical change to clarify that discretionary programs are not included in the waiver. As a practical matter, the terms for discretionary grants and programs such as the Technical Assistance Program of the Department of the Interior are often negotiable. Matching requirements should remain a component of such negotiations or agencies may simply decide not to extend discretionary programs to the territories.

Section 204—Virgin Islands.—This section, which is unaltered by the substitute, would repeal the requirement in the Revised Organic Act of the Virgin Islands that the courts for St. Croix, St. Thomas and St. John must be located in the towns of Christiansted and Charlotte Amalie, respectively. The Government of the Virgin Islands would like to locate the courts outside of these towns in order to take advantage of the lower costs found in other areas.

Section 205—Cabras Island.—This section is not altered by the substitute. It would amend section 504 of Public Law 98-454 to provide that the share of revenues associated with certain lands on Cabras Island in Guam which shall be deposited in the Federal Treasury are reduced frm 70 percent to 50 percent. This amendment is necessary to increase the local share of revenues so that they will be sufficient to repay the costs of developing the land. It is the local government's intention to borrow funds to develop the property for industrial harbor use.

Section 206—Pohnpei Hydropower Addition.—The substitute does not alter the intent of this section which is to authorize appropriations for the design and construction of the hydropower addition to the Nanpil River project as described in the March, 1988, Army Corps of Engineers report entitled "A Planning Report for Hydropower Addition to the Nanpil River Project". The substitute modifies the section to include the most recent cost estimate for the project. However, it is intended that the local government will initiate this project and will contribute substantially toward its cost.

In addition, the new language makes clear that any additional funds appropriated for this addition shall be used for those pur-

poses, and shall be made available under the same terms and conditions regarding cost benefit, insurance and other requirements, as the funds previously authorized and appropriated for the Nanpil project.

Section 207—Clarification with Respect to Allotments for Territories.—The substitute deletes subsection (a) of this section in the House passed resolution which has been enacted as a provision of Public Law 101-93. However, the substitute adds new language which would modify the funding allocations for certain territorial governments under the Department of Justice's law enforcement programs.

Section 208—Virgin Islands Prison Expansion and Renovation.—This section is modified slightly by the substitute to make it less specific. Greater flexibility is needed in light of the damage caused by hurricane Hugo. The section would authorize the appropriation of $5 million to the Secretary of the Interior for a prison of St. Croix, United States Virgin Islands, and for renovation of and improvements to other existing prison facilities in the territory.

Section 209—Office of the Resident Representative.—The substitute includes this new section which would exempt real property owned by the Commonwealth of the Northern Mariana Islands in the capital of the United States, and used by the Resident Representative thereof in the discharge of his representative duties under the Covenant, from assessment and taxation.

Each of the other territories and States have offices which are exempt from taxation. This section would provide equal treatment to the Commonwealth of the Northern Mariana Islands. This provision does not in any way alter the application of U.S. sovereignty to the Commonwealth as set forth in Section 101 of the Covenant. Finally, the Committee notes that the Commonwealth of the Northern Mariana Islands sought this tax waiver from Congress at the suggestion of the Department of Finance and Revenue of the Government of the District of Columbia, made in an August 10, 1989 letter to Mr. William Malone, Esq., attorney for the Commonwealth.

Cost and Budgetary Considerations

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, November 3, 1989.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.J. Res. 175, the Palau Compact of Free Association Implementation Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

C.G. NUCKOLS
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.J. Res. 175.

2. Bill title: Palau Compact of Free Association Implementation Act.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, November 1, 1989.

4. Bill purpose: Title I of the resolution would authorize the entry into force of the Compact of Free Association between the United States and Palau. Under current law, the compact, which was approved upon the enactment of Public Law 99-658, is not yet in effect. Public Law 99-658 gives the President the authority to agree to an effective date for the compact once the following conditions are met: the President certifies that the people of Palau have approved the compact, the President concludes agreements with Palau regarding law enforcement and auditing matters, and the Congress enacts a joint resolution authorizing the entry into force of the compact. While the President has certified that the first two conditions have been met, the certification of Palau's approval is inoperative because the people of Palau have not yet approved the compact by the necessary 75 percent of the vote. Enactment of H.J. Res. 175 would fulfill the third condition and would allow the President to set an effective date for the compact, once the people of Palau approve the compact by referendum.

In addition, Titles I and II of the resolution would authorize programs for insular areas not included in the compact, including prisons, a hydropower plant, and various federal agency personnel.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Provisions in the Compact:					
Full faith and credit—permanent direct spending authority:					
Estimated budget authority [1]	205	18	22	18	19
Estimated outlays	185	20	26	23	25
Authorizations subject to appropriations actions:					
Estimated authorization level		8	5	4	4
Estimated outlays	[2] 9	8	5	4	4
Other provisions in H.J. Res. 175:					
Authorizations subject to appropriations action:					
Estimated authorization level	12	7	1	1	1
Estimated outlays	12	7	1	1	1
Spending reductions from termination of current trust territory authorization [3]:					
Estimated authorization level	−15	−17	−19	−22	−24
Estimated outlays	−15	−17	−19	−22	−24
Net budget effect of H.J. Res. 175:					
Estimated budget authority/authorization level	202	15	9	1	
Estimated outlays	191	18	13	6	6

Note.—Details may not add to totals because of rounding.

[1] Public Law 99-349, the Urgent Supplemental Appropriations Bill, 1986, included a permanent appropriation for such sums as necessary to fund amounts that may be authorized upon enactment of the Palau compact.

[2] Public Law 99-349 provided an appropriation for Palau of $9.34 million, which will become available for obligation upon the effective date of the Palau compact.

[3] These amounts reflect CBO's baseline estimate of payments to Palau through the Trust Territory appropriation and other federal programs, updated to reflect enacted 1990 appropriations. Under current law, programs for Palau are authorized indefinitely and without limitation, and the amounts are set through annual appropriations. Because the compact changes the relationship between the United States and Palau, the existing authorizations for payments to Palau would expire upon the effective date of the Palau Compact (assumed to be in fiscal year 1990), except that the Trust Territory authorization (48 U.S.C. 1681, note) would continue for transition purposes only (Section 102(b) of Public Law 99-658).

6. Estimated cost to State and local governments: Enactment of this legislation would result in no significant cost to the government of Palau, and in no cost to state or local governments.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 26, 1989, CBO prepared a cost estimate for H.J. Res. 175, as ordered reported by the House Committee on Interior and Insular Affairs, June 21, 1989. The estimate for the Senate version is slightly larger than the reported House resolution, because the Senate version of H.J. Res. 175 would provide $2.5 million more than was previously estimated for a hydropower project, and $1.5 million less for grants to puerto Rico.

On June 19, 1989, CBO prepared a cost estimate for H.J. Res. 175, as discharged from the House Committee on Interior and Insular Affairs and placed on the suspension calendar of the House. The resolution then was removed from the suspension calendar and was ordered reported by the committee, in identical form, on June 21, 1989. The more recent estimates show the same costs as the first estimate, except for certain indefinite authorizations included in Title II of the resolution, which CBO now estimates to cost about $5 million less in 1990, based on new information.

9. Estimate prepared by: James Hearn.

10. Estimate approved by: Robert A. Sunshine for James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred on the passage of H.J. Res. 175.

It is the Committee's view that the resolution is not a regulatory measure in the sense of imposing Government-established standards on private individuals or businesses. In fact, the measure would provide for greatly expanded self-government to the people of Palau under the terms of the Compact of Free Association and for termination of the Trust Territory of the Pacific Islands. This would result in a substantial decrease in United States regulations in Palau.

No personal information would be collected in the implementation of H.J. Res. 175. Therefore, there would be no impact on personal privacy.

The resolution would cause a decrease in Federal paperwork as the Trust Territory of the Pacific Islands is terminated, most Federal programs are phased-out, and Palau assumes greater self-government. However, some provisions of title II, such as section 201, 202, 293, 207, which provide for special treatment of certain insular areas in response to their special circumstances, would cause in-

creases in Federal paperwork. Nevertheless, the net effect of the resolution would be to decrease Federal paperwork.

EXECUTIVE COMMUNICATIONS

Views of the Department of State follow:

U.S. DEPARTMENT OF STATE,
Washington, DC, September 14, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate.

DEAR MR. CHAIRMAN: This letter is written to provide the views of the Department of State on H.J. Res. 175, a bill to authorize entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes.

As expressed in my letter of March 31, 1989 to Chairman Morris K. Udall of the House Committee on Interior and Insular Affairs, the Department supports the earliest possible enactment of legislation to authorize entry into force of the Compact with Palau. Title I of this bill will enable the United States and Palau to implement the Compact and its related agreements, including the most recent Compact subsidiary agreement signed at Guam on May 26, 1989, promptly upon completion of Palau's internal approval process.

Section 102 of the bill recognizes that the Compact must be approved by the Palauan people in a referendum conducted in accordance with such constitutional procedures as the Palauan government may choose to employ. This section also enables the President to agree to an effective date and implement the Compact 30 days after notifying relevent Committees of the Senate and House Representatives of such effective date. These provisions are based upon proposals made by the Department, and are fully acceptable.

Similarly, we support the fiscal and audit procedures contained in Section 103. Provisions of a Palauan anti-drug program contained in Section 104 are consistent with the Administration's policy to step up the fight against illicit narcotics, We note, however, that the April 1, 1989 date for submission of an anti-drug plan has passed, and that the National Drug Policy Board, which no longer exists, has been replaced by the Office of National Drug Control Polilcy. We recommend that Section 104 be amended to provide that the Government of Palau draft an anti-drug plan consistent with the U.S. national drug control strategy, in consultation with the relevent U.S. Government agencies. The development of a rational, effective anti-drug plan is a task that will require careful evaluation of Palau's needs, and may take several months to complete.

The Department agrees that, subject to appropriation, provision of assistance to Palau for the support of offices of a public auditor and special prosecutor would provide a useful additional dimension to Compact assistance. We therefore support Section 105 of the bill. Section 106, together with Section 115(b), would allow Palau to liquidated the accumulated debt for its new power plant through agreement with its creditors, thus averting a potentially serious

threat to Palau's international credit standing. We support this solution as a means to permit Palau to embark on its new status free of the burden of this past debt.

Section 107 provides for updating the 5-year National Development Plan for Palau to coincide with the five year period following the effective date of the Compact, and is consistent with obligations previously assumed by the two governments already in free association with the United States. The Department supports the provision of assistance to Palau for upgrading its medical facilities, subject to appropriation and upon the recommendation of the Secretary of the Interior and the Public Health Service, as provided in Section 108.

We fully concur with the audit certification procedures provided in Section 109. With respect to Section 110, the Department wishes to clarify that U.S. rights to acquire and utilize defense sites in Palau continue to be protected under this legislation, and by the agreement signed by the United States and Palau on May 26, 1989. Under provisions of that agreement, the governments will agree to additional payments for private lands utilized as defense sites, and provision is made for settlement of any disputes which might arise in this connection. The Department reaffirms that the United States has no present intention to utilize any public or private lands in Palau for defense activities.

Subject to appropriation, and in accordance with the report to be prepared by the Secretary of the Interior in cooperation with the Government of Palau on the condition of the Palau prison, the Department supports the provision of funds to upgrade prison facilities, authorized under Section 111. The Department also supports the assignment by the Secretary of the Interior of professional staff persons to each of the U.S. Offices in the freely associated states, as provided in Section 112. Pursuant to legislation, these offices have recently been elevated to the status of embassies. Provision of funds to carry out a further referendum in Palau on the Compact, contained in Secion 113, is necessary and appropriate.

Section 114 approves an upgrade of diplomatic relations between the United States and Palau, upon entry into force of the Compact and the completion of required agreements and procedures. A separate bill upgrading relations with the states already in free association with the United States, H.R. 2214, passed both houses of Congress and was signed into law by the President on July 26, 1989. The exchanges of diplomatic notes required to make the upgrade fully effective are now underway.

The Department also supports Section 114(c), extending the provision, which would otherwise expire, of essential air services to the freely associated states. We support the obligation and payments procedures contained in Section 115 of the bill, which are essential to permit resolution of Palau's outstanding power plant debt, although we note that it no longer appears possible to provide funding for liquidation of this debt during fiscal year 1989.

With respect to Section 116, the Department notes and agrees with the requirements for Congressional oversight contained in Section 116(a), and the requirement for submission of agreements set forth in Sections 103 and 107, as specified in Section 116(b). We also concur in Section 117, the amendment of Section 104(c) of the

Palau Compact, to reflect accurately the designation of fiscal years during the 3-year transition period.

With respect to Title II of H.J. Res. 175, the Department of State defers comment on most of its Sections to the Department of the Interior, with the exception of Section 203. This Section would make it possible for the freely associated states to continue to receive regular shipments of controlled substances for medical use from the United States, pending the adherence of the freely associated states to the Single Convention on Narcotic Drugs. The adherence of the freely associated states to the Single Convention is currently under consideration by those governments. Meanwhile, shortages of controlled drugs can cause great human suffering at hospitals in the freely associated states. The Department therefore strongly supports this provision.

The Department believes that H.J. Res. 175 fully addresses the commitments undertaken by the United States in the subsidiary agreements signed on May 26, 1989. We also believe that it builds a firm foundation for the future relations between Palau and the United States. With respect to the floor statements made in the House of Representatives at the time of its passage, we note that the continued provision of Federal programs not contained in the Compact would be subject not only to negotiation and mutual agreement, but also to authorization and appropriation. The Department endorses the floor statements made by Mr. de Lugo, Mr. Lagomarsino, Mr. Solarz and others regarding the need to implement the Compact before making further adjustments to its terms. We wish to emphasize that no attempt to bring the Compact into effect will be made by the United States until the Palauan people have clearly spoken, and their decision is free of any legal challenges. This legislation is the culmination of protracted negotiations that must now draw to a close. We urge its passage, and await the decision of the people of Palau on the Compact in a free and open referendum.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objections to the susbmission of this report.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by H.J. Res. 175, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 99-658

JOINT RESOLUTION To approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes.

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SEC. 104. (a) * * *

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(d) PELELIU AND ANGAUR.—Not later than one year after the date of enactment of this joint resolution, the Secretary of Agriculture, after appropriate studies conducted in consultation with the Government of Palau, shall report to the President and the Congress concerning the feasibility and cost of rehabilitating and restoring the fertility of the topsoil of the islands of Peleliu and Angaur. Upon the request of the Government of Palau, the President shall make the report of the Secretary of Agriculture available to the Government of Palau. Technical assistance to accomplish such rehabilitation and restoration, if feasible, may be provided to the Government of Palau on a nonreimbursable basis, subject to the availability of appropriated funds.

[(e) Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sums and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau. The provisions of section 174(a) of the Compact shall apply with respect to any action based on a contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau prior to the date or enactment of this joint resolution.]

(e) Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sum and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau, except under the procedures established by the Compact and its related agreements. No funds appropriated pursuant to the Compact, this Act, or any other Act for grants or other assistance to Palau may be used to satisfy any obligation or expense incurred by Palau prior to November 14, 1986, with respect to any contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau which has not been specifically authorized by Congress in advance, except that the Government of Palau may use any portion of the annual grant under section 211(b) not required to be devoted to the energy needs of those parts of Palau not served by its central power generating facilities and any portion of the funds under section 212(b) of the Compact for such purpose.

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PUBLIC LAW 95-134

To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes.

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SEC. 501. * * *

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(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided,* That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant. Notwithstanding any other provision of law, in the case of *any nondiscretionary Federal program as it applies in* American Samoa and the Northern Mariana Islands any department or agency shall waive any requirement for local matching funds *or other expenditures* under $100,000 (including in-kind contributions) required by law to be provided by American Samoa or the Northern Mariana Islands.

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PUBLIC LAW 517—JULY 22, 1954

AN ACT To revise the Organic Act of the Virgin Islands of the United States

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SEC. 25. The Virgin Islands consists of two judicial divisions; the Division of Saint Croix, comprising the island of Saint Croix and adjacent islands and cays, and the Division of Saint Thomas and Saint John, comprising the islands of Saint Thomas and Saint John and ajacent islands and cays. [Court for the Division of Saint Croix shall be held in Christiansted, and for the Division of Saint Thomas and Saint John at Charlotte Amalie.]

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PUBLIC LAW 96-418—OCTOBER 10, 1980

AN ACT To authorize certain construction at military installations for fiscal year 1981, and for other purposes.

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LAND CONVEYANCE, GUAM, MARIANAS ISLANDS

SEC. 818. (a)(1) Subject to subsections (b) and (c), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the Government of Guam all right, title, and interest of the United States in and to the lands (or any part of the lands) described in paragraph (2), together with the improvements thereon.

(2) The lands referred to in paragraph (1) consist of approximately 927 acres of land located on Cabras Island and within the northern portion of the Apra Harbor Naval Complex, Guam, Marianas Islands, as shown and more particularly described on a map entitled "Apra Harbor Complex, Guam, Marianas Islands, Conveyance of 927 Acres of Land to the Government of Guam", on file at the Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, Hawaii.

(b)(1) Conveyance of the property described in subsection (a) shall be made at such times, and shall be subject to such terms and conditions, as the Secretary considers to be in the interest of national defense.

(2) Conveyance of the property described in subsection (a) shall be subject to the condition that any disposal by sale or lease of any part or all of the property by the Government of Guam shall only be for a monetary consideration equal to or in excess of the fair market value (at the time of the disposal) of the property concerned, or of the leasehold interest therein, as determined by the Administrator of General Services, and any such monetary consideration received by the Government of Guam, minus any reasonable development costs incurred by such Government in preparing the property concerned for disposal, shall be paid to the United States. Reasonable development costs shall be a fixed standard percentage of such monetary consideration received by the Government of Guam. The fixed standard percentage shall be determined by a study, conducted by the Secretary, typical development costs requiring to convert comparable lands to finished developed sites, except that such percentage shall not exceed [30 percent.] *50 percent.*

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PUBLIC LAW 90-351

AN ACT To Assist State and local governments in reducing the incident of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

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SEC. 901. (a) DEFINITIONS.—As used in this chapter—

(1) "criminal justice" means activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and

pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency;

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands: [*Provided,* That for the purposes of section 3756(a) of this title American Samoa, Guam, and the Northern Marina Islands shall be considered as one State and that, for these purposes, 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam, and 17 per centum to the Northern Mariana Islands;] *Provided, That for the purpose of section 506(a), American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one state and that for these purposes 67 per centum of the amounts allocated shall be allocated to American Samoa, and 33 per centum to the Commonwealth of the Northern Mariana Islands;*

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